

Message Text

CONFIDENTIAL

PAGE 01 BERN 02327 051930Z

46

ACTION EUR-12

INFO OCT-01 ISO-00 L-03 JUSE-00 SSO-00 SP-02 H-02 SEC-01

SCA-01 CIAE-00 INR-07 NSAE-00 INRE-00 EB-07 OMB-01

TRSE-00 PRS-01 EURE-00 /038 W

----- 063956

O 051745Z JUN 75

FM AMEMBASSY BERN

TO SECSTATE WASHDC IMMEDIATE 773

C O N F I D E N T I A L BERN 2327

E.O. 11652: GDS

TAGS: PFOR, CPRS, SZ

SUBJECT: PROPOSED EXCHANGE OF NOTES RELATED TO ARTICLE 12 OF THE
JUDICIAL ASSISTANCE TREATY (JAT)

REF: BERN 2272; TELCON ANDERSON/ODELL, JUNE 5, 1975

1. ON MAY 2 EMBOFF DISCUSSED AT LENGTH WITH FPD CARATSCH
(AMBASSADOR MULLER'S DEPUTY) A) A SWISS DECISION TO DEFER
EXCHANGE; B) THE PRECISE PARLIAMENTARY PROCEDURE REQUIRED
BY THE SWISS SCENARIO; C) THE ESTIMATED TIMING FOR THE
EXCHANGE OF NOTES; AND STRESSED TO HIM THE IMPORTANCE
ATTACHED TO THE CRITICAL EXCHANGE OF NOTES BY THE USG.
CARATSCH REITERATED GOS POSITION THAT RATIFICATION PROCEDURE
WAS TOO FAR ALONG TO BE INTERRUPTED BY PRESENT EXCHANGE OF
NOTES WHICH WOULD GIVE INTEREST GROUPS BASIS FOR DELAYING
OR EVEN JEOPARDIZING FINAL ACTION. AFTER EXPECTED APPROVAL
OF TREATY IN PRESENT FORM ON JUNE 18, CONSTITUTION REQUIRES
A "FACULTATIF REFERENDUM " I.E. A THREE-MONTH HIATUS DURING
WHICH PERIOD OPPOSITION TO ENACTMENT CAN BE RAISED.
FOR TREATIES 50,000 SIGNATURES TO PETITION OPPOSING
ENACTMENT ARE REQUIRED. ON TERMINATION OF THREE-MONTH
PERIOD FEDERAL COUNCIL CAN SIGN ENACTMENT DECREE.

2. FPD STATES THAT EXCHANGE OF PROPOSED NOTES MUST BE
AUTHORIZED BY FEDERAL COUNCIL (FC) AND THAT AUTHORIZATION
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BERN 02327 051930Z

CAN BE REQUESTED BEFORE THREE-MONTH PERIOD HAS RUN. FC

CEN, ON ITS OWN INITIATIVE, AUTHORIZE THE EXCHANGE, OR MIGHT REQUIRE THAT IT BE REFERRED BACK TO PARLIAMENT FOR REVIEW AND APPROVAL. CARATSCH STATES THAT FPD EXPECTS AUTHORIZATION DIRECTLY FROM THE FEDERAL COUNCIL BECAUSE THE EXCHANGE MERELY REPRESENTS A CLARIFICATION OF TREATY PROVISIONS. FPD THEREFORE ANTICIPATES THAT THE EXCHANGE CAN OCCUR SHORTLY AFTER JUNE 18 AND FINAL ENACTMENT WILL OCCUR AS SCHEDULED O/A SEPTEMBER 18.

3. COMMENT:

EMBASSY OF COURSE CONCERNED THAT FPD FUNCTIONAIRES ARE NOT ATTACHING APPROPRIATE IMPORTANCE TO SUBSTANCE OF THE EXCHANGE. IN ALL OUR CONTACTS WITH THEM OVER PAST SEVERAL MONTHS WE HAVE DIRECTED ATTENTION TO PRECISE WORDING OF OUR PROPOSED NOTE PARTICULARLY TO THAT PORTION STATING "....WITNESS WILL SIGN THE TRANSCRIPT AFFIRMING THAT HIS TESTIMONY IS TRUE." ON EACH OCCASION WE HAVE BEEN ASSURED, AND MULLER AT SENIOR LEVEL OF FPD HAS NOW REITERATED, THAT SUBSTANCE OF NOTE PRESENTS NO PROBLEMS. BEYOND THIS, HOWEVER, WE ARE CONCERNED THAT IF SCENARIO AS ENVISAGED BY FPD IS FOLLOWED, WHEN FEDERAL COUNCIL RECEIVES REQUEST FOR APPROVAL OF EXCHANGE OF NOTES, IT WILL AT THAT CRITICAL POINT BECOME APPARENT TO SOMEONE THAT NOTES ARE TRULY SUBSTANTIVE AND PERHAPS OUGHT TO BE REFERRED BACK TO PARLIAMENT.

4. WE OBVIOUSLY CANNOT INSTRUCT FPD HOW TO HANDLE ITS AFFAIRS. HOWEVER, IF DEPARTMENT AGREES EMBASSY PREPARED GO BACK TO MULLER STRESS SERIOUSNESS WITH WHICH USG REGARDS THIS MATTER, AND SUGGEST HE MAY WISH TO DISCUSS PROBLEM AT HIGHER LEVEL. WOULD APPRECIATE DEPARTMENT'S COMMENTS.
DOMINICK

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, TREATY RATIFICATION, CONSULAR LEGAL ASSISTANCE, DIPLOMATIC NOTES
Control Number: n/a
Copy: SINGLE
Draft Date: 05 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BERN02327
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750197-0118
From: BERN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750675/aaaacqrv.tel
Line Count: 94
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 BERN 2272, 75 JUNE 5, 75 1975
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 18 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <18 JUN 2003 by BoyleJA>; APPROVED <04 NOV 2003 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PROPOSED EXCHANGE OF NOTES RELATED TO ARTICLE 12 OF THE JUDICIAL ASSISTANCE TREATY (JAT)
TAGS: PFOR, CPRS, SZ
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006